



National Grocers Association

U.S. Senate Finance Committee

Submission to the Business Income Tax Working Group

On Behalf of the National Grocers Association

April 13, 2015

The National Grocers Association (NGA) appreciates the opportunity to submit comments for consideration by the Senate Finance Committee's Working Group on Business Income Tax. NGA is the national trade association representing the retail and wholesale grocers that comprise the independent channel of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating a variety of formats. Most independent operators are serviced by wholesale distributors, while others may be partially or fully self-distributing. Some independents are publicly traded, but with controlling shares held by the family and others are employee owned. Independents are the true "entrepreneurs" of the grocery industry and dedicated to their customers, associates, and communities. The independent supermarket channel is accountable for close to 1% of the nation's overall economy and is responsible for generating \$131 billion in sales, 944,000 jobs, \$30 billion in wages, and \$27 billion in taxes. Many of our member companies are family owned and operated, privately held, and operate on a slimmer net profit margin than most small businesses, roughly 1.5%.

NGA commends the Committee's efforts towards enacting comprehensive tax reform. Our members believe that the current tax code is bloated, broken, and in need of serious reform, and we appreciate the opportunity to share our thoughts with the Working Group regarding the effect tax reform could have on independent retail and wholesale grocers, many of which are small and medium size businesses.

Independent grocers and their wholesalers are unique in several key ways that effect their taxes and their take home pay. Therefore, the following tax provisions and accounting methods have significant impact on NGA's member companies:

Corporate Tax Rates:

NGA has long advocated for tax reform that is fair and equitable for all business entities. A 2013 tax survey of our member companies illustrated that 57% operate as pass-through entities and 37% as C-Corporations. In that same survey, they overwhelmingly cited a direct correlation between higher taxes and their ability to grow their businesses. When surveyed, 89% of respondents noted that tax rates have a significant impact on their business.

NGA Position: We believe tax reform must include relief for both pass-through entities and C-Corps and must include parity without disproportionately disadvantaging one organizing method over another. Tax reform must be fair and equitable and not pick “winners and losers”, especially when it comes to assessing top rates.

Last In, First Out (LIFO) Accounting Method:

LIFO has been a widely accepted accounting practice since 1939 and is critical to the supermarket industry, particularly in times of high food inflation. It allows companies to more accurately match the cost of goods sold with the cost of replacement inventory. In a 2014 survey of our members, respondents indicated that 45% use LIFO, and for those operating over 30 stores, 100% of respondents use LIFO. In addition, while a number of NGA member wholesalers use LIFO and have built up significant LIFO reserves on their balance sheets, these reserves are by no means a liquid asset. For those wholesalers who operate as cooperatives, the impact of taxing their LIFO reserves would be ultimately felt by their independent retail grocer owners, causing a trickle-down effect by effectively reducing the equity position of those retailers. The repeal of LIFO would remove capital from the economy and hurt our member’s ability to grow their business and create jobs.

NGA Position: NGA strongly urges you maintain LIFO as an acceptable accounting practice, just as it has for over seventy years. Any proposal to repeal LIFO and require companies to pay a tax on their “reserve” will result in a punitive tax increase on our industry.

Estate Tax:

NGA members appreciate the limited estate tax signed into law in early 2013, but we continue to support full repeal. While this policy change has provided some relief to our family-owned businesses,

we remain concerned about recent proposals from the Administration to eliminate stepped-up basis while levying capital gains taxes on those appreciated assets are of major concern to our industry.

Well over half of the assets of a typical supermarket are not liquid, so the death of an owner creates a serious obstacle to continuation of the business. Families in the independent supermarket industry are often forced to borrow funds to pay the tax, which could hamper the growth of a business. Estate taxes put family-owned businesses at a severe disadvantage when they compete with corporations that rarely face the prospect of being forced to borrow funds or liquidate an ongoing enterprise in order to pay an enormous tax, undermining the important American values of hard work, entrepreneurship, thrift, and intergenerational savings.

NGA Position: NGA continues to support repeal of the estate tax for family-owned businesses. In the absence of full repeal, NGA supports any effort to provide additional relief to family-owned businesses by increasing the exemption and lowering the top rate. NGA strongly opposes any effort to eliminate stepped up basis and levy capital gains taxes on our member family-owned businesses.

Business Tax Extenders:

Independent grocers have experienced tremendous successes in growing their businesses and adding jobs through the use of pro-growth tax extenders, including the Work Opportunity Tax Credit (WOTC), 15 year straight-line cost recovery for qualified leasehold improvements, Bonus Depreciation, the increased expensing of up to \$500,000 in equipment, the New Markets Tax Credit (NMTC), and enhanced charitable deductions for contributions of food. Unfortunately, the recent uncertainty brought on by Congress' failure to renew these tax provisions in a timely manner has impacted our members' ability to use these provisions to their fullest potential.

Numerous NGA members utilize WOTC as an important tool to hire workers that otherwise face significant barriers to employment, including many who receive public assistance. While 60% of respondents to our 2013 survey indicated WOTC was important to their business, a number of members noted that the administrative burdens required to administer the program can be significant, including potential penalties for errors. Many of our members have found success in hiring workers who often face barriers to employment because of this credit.

Fifteen year straight-line cost recovery for qualified leasehold improvements is important to independent grocers from a cash flow perspective, and has been utilized by many of our retail owners. Members have sited that this provision enables them to upgrade their stores much easier, while noting

that an even shorter time period than current 15 years would be more advantageous to their businesses.

Grocers have used bonus depreciation and Section 179 expensing to aid in remodeling stores, replacing old equipment with new machinery, modernizing technology to compete with larger chains, investing in energy saving equipment such as new refrigeration and lighting, and improving facility safety. Equipment for a typical supermarket requires substantial capital investment, even for smaller stores. Many of our members have cited the positive impact Bonus Depreciation and Section 179 expensing have had on cash flow for use in capital investments.

As more NGA members are investing in communities located in food deserts, the NMTC has become a key tool that has enabled numerous urban projects. Independent grocers in Pennsylvania, New York, California, Illinois, the City of New Orleans, and Mississippi, to name just a few, are participating in efforts to bring supermarkets and economic development to areas that have lacked access, in addition to new store projects that are ongoing in numerous communities across the country due, in part, to NMTC resources.

And finally, NGA believes it is important in today's economic environment to continue the enhanced deductions for food contributions to encourage those entities who are able to donate food items to continue to do so.

NGA Position: In the context of comprehensive tax reform, NGA urges the Working Group to consider the positive economic these tax provisions have on local communities and ensure that businesses are provided with the tools that free up capital and cash to allow them to grow their business and hire workers. In the absence of comprehensive reform, NGA requests the Working Group give serious consideration to how tax extenders are currently addressed by Congress and we urge you to consider a long-term extension of these provisions so independent grocers can be provided with tax certainty and predictability.

We look forward to continuing what has been a very constructive dialog with the Committee on these issues and others important to the independent supermarket channel. Thank you again for the opportunity to submit these comments.